

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

JOSE ANTONIO GURROLA	§	
VS.	§	CIVIL ACTION NO. 1:13-CV-388
SCHUYLER LEVIAS, ET AL.	§	

ORDER ADOPTING THE MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Jose Antonio Gurrola, a prisoner confined at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against Schuyler Levias, Rockella Neal, Officer Collins, Dr. Bean, and Kevin Bowles.

The court ordered that this matter be referred to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends denying defendants' motion to dismiss the excessive force claims against defendants Bowles, Levias, and Neal in their individual capacities. The Magistrate Judge also recommends granting the motion to dismiss with respect to the Equal Protection claim against defendants Levias and Bowles, and with respect to the claims brought against the defendants in their official capacities.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record and pleadings. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties.

ORDER

Accordingly, the findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge (docket entry #35) is **ADOPTED**. Defendants' motion to dismiss (docket entry #30) is **DENIED** with respect to the excessive force claims against defendants Bowles, Levias, and Neal. Defendants' motion to dismiss is **GRANTED** with respect to the Equal

Protection claim against defendants Levias and Bowles. Defendants' motion to dismiss is **GRANTED** with respect to the claims brought against the defendants in their official capacities.

So **ORDERED** and **SIGNED** this **9** day of **September, 2015**.

A handwritten signature in black ink, appearing to read "Ron Clark", written in a cursive style.

Ron Clark, United States District Judge